

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN RUSSOPOULUS, 97-A-1208,

Plaintiff,

-vs-

Correction Officer CATER, Correction
Officer RYDZA, Correction Officer
LEWALSKI, Correction Officer
JOHNSON, and Sergeant JOHN DOE,

Defendants.

DECLARATION

03-CV-0249A(Sc)

GARY JOHNSON, declares under penalty of perjury that the following is true and correct:

1. I am employed by the New York State Department of Correctional Services ("DOCS") as a Correction Officer at Attica Correctional Facility ("Attica"). I held that position at the time of the events alleged in the complaint in 2000.
2. This declaration is submitted in support of my motion for summary judgment. I understand from my attorney that plaintiff John Russopoulus (97-A-1208) brought this law suit alleging that defendants violated his constitutional rights by deliberately letting out other inmates to assault on February 14, 2002, February 28, 2002 and March 20, 2002 while he was housed in B-Block, Gallery 18. I also understand that plaintiff claims defendants retaliated against him as a result of his complaints concerning the alleged assault.
3. Plaintiff's allegations are incorrect as they pertain to me. I was not working on B-Block, Gallery 18 where plaintiff was housed. Nor did I have any responsibility for plaintiff's care or custody.
4. On February 14, 2002, I was working on the C-Block third floor so I had no responsibility for B-Block where plaintiff was housed. A copy of the staff planning grid

verifying my post is attached as Exhibit A.

5. On February 28, 2002 and March 20, 2002, I was assigned as the Gym/B-Block Rec. Officer. Copies of the staff planning grids verifying my post for those dates are attached as Exhibit B. As Gym/B-Block Rec. Officer, my duties are limited to C-Block and the gym area, not B-Block. A copy of my job description entitled Title of Position Assigned to Post for Gym/B-Block Rec. Officer, verifying that I had no responsibility for B-Block where plaintiff was housed at the time of the events alleged in the complaint, is attached as Exhibit C.

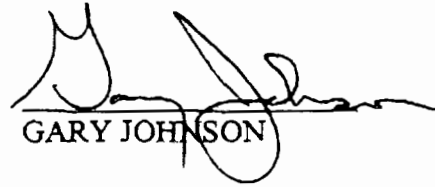
6. Moreover, I have been advised by my attorney that plaintiff's complaint which was initially filed *pro se*, named a different officer, J. Johnson, as a defendant instead of me. Similarly, plaintiff's proposed amended complaint which he also prepared *pro se* and mailed to Judge Scott and AAG Michael Siragusa on April 9, 2004, also named Officer J. Johnson as a defendant. I am not that officer. However, I was incorrectly served with the summons and complaint and incorrectly named in the amended complaint prepared by plaintiff's attorney. (Docket #58).

7. Other than to respond to plaintiff's allegations in this action, I have had no involvement whatsoever with plaintiff. I have been advised by my counsel that a search of Attica files revealed that I did not prepare any memoranda nor was questioned in response to plaintiff's grievances and complaints regarding the claims in this action.

8. I have no personal knowledge of the claims alleged in the complaint nor any personal dealings with plaintiff. I have not violated any constitutional right of plaintiff and am improperly named in this action.

9. Based upon the foregoing, I respectfully request that the Court request my motion for summary judgment dismissing the complaint against me.

Dated: May 12, 2006



GARY JOHNSON

Exhibit A

00: 02/08/02 - 02/21/02

WATCH COMMANDER

6637 WATCH COMMANDER SIGNATURE:

[illegible]

Special Life

20

4222

50125

105

2000

Exhibit B

RUN DATE	3/20/02
RUN TIME	16:22

SHIFT: EVENING

TOUR: 3

RGO SQUADS: 06 & 07

DAY: THURSDAY

DATE: 02/28/02

PERIOD: 02/22/02 - 03/07/02

PLANNED POST ABSENCES

DATE: 22 23 24 25 26 27 28 01 02 03 04 05 06 07
WEEKDAY: F SA SU M TU W TH F SA SU M TU W TH
SQUADS OFF: 67 12 12 34 45 56 67 71 23 23 45 56 67 71

[illegible]

Exhibit C

FORM 1207

**STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES
ATTICA CORRECTIONAL FACILITY**

Date: March 7, 2006

TITLE OF POSITION ASSIGNED TO POST: Correction Officer Shift: 1500 Squad: 4

DESIGNATION: GYM/B-BLOCK REC. DUTIES DIFFERENT ON WEEKENDS

Yes No

X	
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PURPOSE OF POST (Overall, summary narrative description):

Responsible for the movement and control of inmates in the Gym during Night Recreation or in the assigned Housing Area when the Gym is Closed.

TOUR STATIONS:

3:00 P.M. VOC. II (Monday thru Friday)
VISITING ROOM FRISK AREA (Week-ends & Holidays)
4:00 P.M. C - BLOCK
6:30 P.M. GYM
9:00 P.M. C - BLOCK

DUTIES (List in numerical order):

3:00 P.M. Report to Voc. II (Week-days) and assist in frisking inmates leaving Voc. II. Report to the Visiting Room Frisk Area (Week-ends & Holidays) and help frisk inmates and escort them back to assigned block.

4:00 P.M. Assist C-Block Hall Captain in Supper Meal Run (run a company to the Mess Hall when needed).

5:00 P.M. Assist in the Block Count. Assist 2nd Floor Officer with cell frisks.

5:30 P.M. Conduct cell frisk as directed.

6:10 P.M. Escort Law Library Call-outs from Block to Times Square.

6:30 P.M. When the Gym is Open, go to the block scheduled for Gym Recreation and escort a company to the Gym. Cover an area in the gym. Be alert to inmate activities. Counsel inmates when necessary.
When the Gym is Not Open, work under the direction of C-Block Hall Captain - frisks, showers, escort, etc.

9:00 P.M. When the Gym Closes, return a company to their assigned block. Return to your respective block and take direction from C-Block Hall Captain.

10:00 P.M. Assist in the Count.

11:00 P.M. OFF DUTY.

REQUIREMENTS (The qualifications required to perform satisfactorily the duties of this POST as described above, listed in numerical order under each heading as appropriate):

NOTE: The duties of this post may be changed as security or other conditions require. The incumbent of this post may be required to serve in any other assignment temporarily during the periods of manpower shortages or other unusual conditions. Throughout the shift. Comply with all sections of the Employee Rule Book. Notify appropriate supervisor of questionable activity. Be alert at all times. Carry out other duties as assigned by a Supervisor.

APPROVED: _____
Superintendent

POST # 283

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JOHNSON, and Sergeant JOHN DOE,

03-CV-0249A(Sc)

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2006, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system.

And, I hereby verify that on May 12, 2006, I mailed the foregoing, by United States Postal Service, to the following non-CM/ECF participant at his last known address:

JOHN RUSSOPOULUS, 97-A-1208
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902-0500

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